

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DiscoverOrg, LLC,

Plaintiff,

v.

APIHub, Inc. d/b/a Clearbit,

Defendant.

Case No. 2:17-cv-1690

COMPLAINT FOR FALSE  
ADVERTISING AND UNFAIR  
COMPETITION, PRODUCT  
DISPARAGEMENT/TRADE LIBEL,  
UNJUST ENRICHMENT, VIOLATION  
OF THE WASHINGTON CONSUMER  
PROTECTION ACT

DEMAND FOR JURY

Plaintiff DiscoverOrg, LLC (“DiscoverOrg”), by and through its undersigned counsel,  
alleges as follows:

**I. NATURE OF THIS ACTION**

1. This action arises out of the conduct of APIHub, Inc. d/b/a Clearbit (“Clearbit”).
2. Clearbit, a competitor of DiscoverOrg, published certain advertisements and marketing materials containing false and misleading claims about DiscoverOrg that have caused irreparable harm to the market value and reputation of DiscoverOrg’s product and brand. Overall, Clearbit claimed that its data platform is more accurate and generally works better than DiscoverOrg’s platform. Clearbit’s statements are false on their face and/or are misleading and deceptive.

COMPLAINT - 1

Case No. 2:17-cv-1690

LANE POWELL PC  
601 SW SECOND AVENUE, SUITE 2100  
PORTLAND, OREGON 97204-3158  
503.778.2100 FAX: 503.778.2200

4. Plaintiff DiscoverOrg is a Delaware limited liability company with its principal place of business in Vancouver, Washington.

5. DiscoverOrg has been a pioneer in the marketing and sales intelligence software space for ten years. DiscoverOrg's platform is designed to reduce the time-to-direct-connection with targeted prospects and improves the performance of all prospecting efforts by providing both the contacts and context needed to sell and market more effectively. DiscoverOrg's software is tailored to meet the needs of sales, marketing, and staffing professionals.

6. DiscoverOrg’s clients include IT-reliability software startups, enterprise market research organizations, and cloud-based collaboration providers. DiscoverOrg helps companies across all verticals and stages fill their pipelines and improve their bottom lines.

7. Clearbit is a California corporation and a competitor of DiscoverOrg.

8. Clearbit also offers data solutions and a software platform targeted to sales, marketing, and development professionals.

9. On its website, Clearbit boasted that it is “The new alternative to DiscoverOrg” and stated mistakenly that Clearbit provides better data coverage, data accuracy, and features than DiscoverOrg.

10. This action arises under 15 U.S.C. § 1125(a) and the statutory and common law of the state of Washington. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question), 15 U.S.C. § 1121 (Lanham Act claims), and 28 U.S.C. § 1367 (supplemental jurisdiction over pendant state law claims). This Court also has jurisdiction under 28 U.S.C. § 1332 because the parties are citizens of different states and the amount in controversy exceeds \$75,000.

11. Venue is proper in the District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims occurred in this District. Specifically, Clearbit targeted DiscoverOrg, a Washington limited liability company, using DiscoverOrg's trademark and harming its reputation in Washington. Clearbit's actions affect DiscoverOrg's sales, the effects of which are felt in Washington. In addition, Clearbit's false or misleading statements reach DiscoverOrg's customers and users, including those based in the State of Washington.

#### IV. FACTUAL ALLEGATIONS

12. This action seeks redress for Clearbit's deliberate, false, or misleading claims regarding DiscoverOrg and its product and services.

13. Since 2007, DiscoverOrg has been a provider of business-to-business ("b2b") marketing data, which it delivers to clients via a password-secured, online graphical user interface. DiscoverOrg uses technology, computers, and electronic communication systems to provide subscribers with its database of marketing information profiling businesses in the United States and globally. DiscoverOrg has been recognized as an industry leader in sales and marketing intelligence. The depth, breadth, and accuracy of DiscoverOrg's database is unrivaled in the marketplace, and DiscoverOrg has made substantial investments in infrastructure and resources to support its database and ensure that it is of the highest quality. DiscoverOrg's investment of hundreds of thousands of dollars to develop, refine, update, and modify its platform has resulted in a respected DiscoverOrg brand.

14. In contrast, upon information and belief, Clearbit only recently entered the market in 2014 and struggled to compete with DiscoverOrg.

15. After several years of near failure, Clearbit launched a new advertising campaign where it positioned itself and its platform head-to-head with DiscoverOrg as well as other industry leaders such as Data.Com, ZoomInfo, and Inside View. *See* Exhibit 1, a true and correct

1 copy of the website previously located at <https://clearbit.com/why>, attached hereto and made a  
2 part hereof by this reference.

3 16. Among other representations on its website, Clearbit made the following false and  
4 misleading claim: “Focussing [sic] primarily on direct dials, DiscoverOrg’s model relies on  
5 buying lists from companies like HGData or using an outsourced team to manually call up a  
6 business and gather data.” *See* Exhibit 2 a true and correct copy of the website previously located  
7 at <https://clearbit.com/alternatives/discoverorg-vs-clearbit>, attached hereto and made a part  
8 hereof by this reference. This statement gives the false and misleading impression that  
9 DiscoverOrg acquires “direct dials” from HGData, which is **false**. Clearbit’s statement also gives  
10 the false and misleading impression that DiscoverOrg’s research team is “outsourced,” which is  
11 also **false**; DiscoverOrg employs a large team of over 200 in-house researchers.

12 17. Clearbit also falsely and misleadingly claimed that “DiscoverOrg specializes in  
13 data for US enterprise businesses in the IT sector, believing IT executives are the most valuable  
14 persona for cloud software decisions.” Ex. 2. This statement gives the false and misleading  
15 characterization of DiscoverOrg’s product as IT-only, which is **false**. DiscoverOrg offers data  
16 covering marketing, finance, human resources, sales, and technology product development  
17 contacts. Clearbit’s statement is also **false** in stating that DiscoverOrg “believ[es] IT executives  
18 are the most valuable persona for cloud software decisions.” In fact, Clearbit has no relationships  
19 with DiscoverOrg and no knowledge about what DiscoverOrg believes.

20 18. On its website, Clearbit also presented a graphic falsely depicting the accuracy of  
21 DiscoverOrg’s data. The graphic shows that DiscoverOrg’s data has been less than 60% accurate  
22 since 2014, that it was less than 40% accurate in 2016, and that its accuracy has dropped to  
23 approximately 20% at the present time. *See* Ex. 2 and Ex. 1 (depicting similar graphics). These  
24 claims as to the accuracy of DiscoverOrg’s data are **false**. The graphics further give the false and  
25 misleading impression that Clearbit has access to DiscoverOrg’s data and that Clearbit is able to  
26 and did measure the accuracy DiscoverOrg’s data, when it cannot and did not.

1           19. Similarly, Clearbit made the false and misleading claim that “Outside its focus  
2 area in IT, DiscoverOrg’s data accuracy is of varying quality.” *See* Ex. 2. This statement gives  
3 the false and misleading impression that Clearbit has access to DiscoverOrg’s data and is able to  
4 and did measure the accuracy thereof.

5           20. Clearbit further made numerous false and misleading claims about the rating  
6 received by DiscoverOrg and Clearbit on the website g2crowd.com. *See* Ex. 2. First, showing a  
7 side-by-side comparison of the ratings for various features of Clearbit and DiscoverOrg, Clearbit  
8 cited to the main DiscoverOrg G2Crowd reviews page, giving the false and misleading  
9 impression that those numbers are supported by the cited page. In fact, G2Crowd actually did  
10 publish a side-by-side comparison of Clearbit and DiscoverOrg, which is not cited by Clearbit.  
11 *See* Exhibit 3, a true and correct copy of [http://www.g2crowd.com/compare/clearbit-enrichment-](http://www.g2crowd.com/compare/clearbit-enrichment-vs-discoverorg)  
12 [vs-discoverorg](http://www.g2crowd.com/compare/clearbit-enrichment-vs-discoverorg), attached hereto and made a part hereof by this reference. That comparison makes  
13 clear that many of the ratings for various features cited by Clearbit are also **false**. In particular,  
14 Clearbit falsely claimed:

15           a. that DiscoverOrg has an 8.1 rating in “CRM and Marketing Integrations,” while  
16 Clearbit has a 9.4 rating. In fact, both DiscoverOrg and Clearbit have an 8.5 rating in the  
17 “Integration to CRM/Marketing Automation” category.

18           b. that Clearbit has an 8.0 rating in “Reporting.” In fact, Clearbit has a rating of 7.9  
19 in that category.

20           c. that DiscoverOrg has an 8.2 rating in the “Data Enrichment / Append” category,  
21 while Clearbit has an 8.4 rating. In fact, no such rating appears on G2Crowd.

22           d. that DiscoverOrg has an 8.2 rating in the “Prospector” category, while Clearbit  
23 has an 8.4 rating. In fact, no such rating appears on G2Crowd.

24           e. that DiscoverOrg has an 8.2 rating in “APIs,” while Clearbit is rated 9.9. In fact,  
25 DiscoverOrg has an 8.4 rating in the “APIs” category, and Clearbit has a rating of 9.1.  
26  
27

1 f. that Clearbit has a rating of 9.4 in the “Ease of Setup” category. In fact, Clearbit  
2 has a 9.3 rating in that category.

3 g. that DiscoverOrg has an 8.3 rating for “Support,” while Clearbit has a rating of  
4 9.2. In fact, DiscoverOrg has a 9.0 rating while Clearbit is rated 8.9 in the “Quality of Support”  
5 category.

6 21. Taken as a whole, Clearbit’s side-by-side comparison systematically inflates  
7 Clearbit’s G2Crowd ratings while falsely stating that DiscoverOrg’s ratings are lower than they  
8 are. Clearbit’s numerous false statements relating to the G2Crowd comparison give the false and  
9 misleading impression that Clearbit is more highly rated relative to DiscoverOrg by G2Crowd  
10 users than is the case.

11 22. On another webpage, Clearbit included a similarly false and misleading side-by-  
12 side ratings comparison, where no source is cited. *See* Ex. 1. This comparison gives the false and  
13 misleading impression that Clearbit and DiscoverOrg have been rated by a reliable and  
14 independent rating system, but no support is provided. Assuming that the ratings are again pulled  
15 from G2Crowd, they are misstated again to make it appear that Clearbit is more highly rated than  
16 it actually is, while making it appear that DiscoverOrg has lower ratings than it actually does in  
17 each category. In particular, Clearbit claims:

18 a. that DiscoverOrg has a rating of 8.1 for “Contact Data Accuracy.” This is **false**.  
19 DiscoverOrg is rated 8.4 for Contact Data Accuracy on G2Crowd.

20 b. that DiscoverOrg has a rating of 8.0 for “Company Data Accuracy.” This is **false**.  
21 DiscoverOrg is rated 8.6 for Company Data Accuracy on G2Crowd.

22 c. that DiscoverOrg has a rating of 8.1 for “Performance and Reliability.” This is  
23 **false**. DiscoverOrg is rated 8.7 for Performance and Reliability on G2Crowd.

24 d. that DiscoverOrg has a rating of 8.1 for “APIs,” while Clearbit has a rating of 9.4.  
25 This is **false**. In the APIs category, DiscoverOrg is rated 8.4, while Clearbit is rated 9.1.  
26  
27

23. In addition, Clearbit misleadingly omits DiscoverOrg's Salesforce.com integration from the list of DiscoverOrg's connectors next to Clearbit's promotion of its own "Salesforce integration," giving the false and misleading impression that Clearbit has a Salesforce integration while DiscoverOrg does not.

24. To this day, Clearbit features DiscoverOrg's logo on its website without context and without authorization to do so from DiscoverOrg. *See* Exhibit 4, a true and correct copy of the website previously located at <https://clearbit.com/our-data>, attached hereto and made a part hereof by this reference.

25. Clearbit's purposeful attacks on and false statements about DiscoverOrg (and itself) have caused DiscoverOrg irreparable harm.

## V. CAUSES OF ACTION

### COUNT ONE

#### (False Advertising and Unfair Competition Under 15 U.S.C. § 1125(a))

26. Plaintiff DiscoverOrg realleges and incorporates by reference the allegations as set forth above.

27. Defendant Clearbit made and distributed in interstate commerce and in this District advertisements and website statements that contain false and misleading statements of fact regarding DiscoverOrg's products, services, and ratings, as well as false comparisons between DiscoverOrg and Clearbit (that also contain false statements about Clearbit itself). Clearbit's malicious and false campaign against its competitor DiscoverOrg constitutes unfair competition.

28. These advertisements and website statements contained actual misstatements and misleading statements or failures to disclose.

29. These statements actually deceive or have a tendency to deceive a substantial segment of the customers and potential customers for DiscoverOrg.

31. Clearbit's false and misleading statements injure both consumers and DiscoverOrg. Clearbit's purposeful, wrongful acts are intended to disparage DiscoverOrg and deter customers and potential customers from purchasing DiscoverOrg's platform.

32. Clearbit's false and misleading statements violate Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

33. Clearbit has caused, and will continue to cause, immediate and irreparable harm to DiscoverOrg, including injury to DiscoverOrg's business, reputation, and goodwill, for which there is no adequate remedy at law. DiscoverOrg therefore seeks an injunction under 15. U.S.C. § 1116 restraining Clearbit and its agents, employees, representatives, and all persons acting in concert with Clearbit from engaging in future acts of false advertising and ordering removal of all of Clearbit's false advertising and references to DiscoverOrg on its website.

34. Pursuant to 15 U.S.C. § 1117, DiscoverOrg also seeks to recover from Clearbit (a) the damages sustained by DiscoverOrg as a result of Clearbit's acts in violation of the Lanham Act; (b) the gains, profits, and advantages that Clearbit obtained as a result of its actions; and (c) costs of this action.

35. Because Clearbit's actions were willful and taken with the intent to cause confusion, mistake, or deception, DiscoverOrg seeks additional damages and reasonable attorneys' fees.

**COUNT TWO**

**(Product Disparagement / Trade Libel Under Washington Common Law)**

36. Plaintiff DiscoverOrg realleges and incorporates by reference the allegations as set forth above.

37. Defendant Clearbit conducted a malicious campaign against DiscoverOrg and its software product by making false and disparaging statements about their qualities. Specifically,



1 Clearbit made false statements disparaging DiscoverOrg's data accuracy, performance and  
2 reliability, features, and ratings.

3 38. By making these false statements, Clearbit intentionally and maliciously  
4 published to customers and potential customers allegations that impugned the quality or integrity  
5 of DiscoverOrg's software product, which, upon information and belief, caused customers not to  
6 use DiscoverOrg's platform.

7 39. Clearbit's misconduct in the form of product disparagement/trade libel has  
8 damaged DiscoverOrg in an amount to be proven at trial.

9 **COUNT THREE**

10 **(Unjust Enrichment Under Washington Common Law)**

11 40. Plaintiff DiscoverOrg realleges and incorporates by reference the allegations as  
12 set forth above.

13 41. To the extent that DiscoverOrg's rights are not otherwise protected by other  
14 causes of action, a legal obligation to prevent Clearbit's false statements and consumer harm can  
15 be implied by law.

16 42. Clearbit benefitted when it published false and misleading information on its  
17 website and disparaged DiscoverOrg's software product and features. Clearbit gained an unfair  
18 marketing and competitive advantage over DiscoverOrg based on false information that Clearbit  
19 passed on to consumers. In addition, Clearbit, a newcomer to the industry, received an unfair  
20 head start in advancing the status of its product; by falsely comparing itself to and disparaging a  
21 competitor, Clearbit moved itself forward in the industry harming DiscoverOrg.

22 43. Clearbit's benefit was to DiscoverOrg's detriment; Clearbit's false statements  
23 damage DiscoverOrg's business, brand, and reputation and, upon information and belief, caused  
24 potential customers not to choose DiscoverOrg for their business needs.

25 44. Clearbit's conduct constitutes unjust enrichment and has damaged DiscoverOrg  
26 in an amount to be proven at trial.

27 **COMPLAINT - 9**

Case No. \_\_\_\_\_

**LANE POWELL PC**  
601 SW SECOND AVENUE, SUITE 2100  
PORTLAND, OREGON 97204-3158  
503.778.2100 FAX: 503.778.2200

**COUNT FOUR**

**(Violation of the Washington Consumer Protection Act, RCW 19.86)**

45. Plaintiff DiscoverOrg realleges and incorporates by reference the allegations as set forth above.

46. Defendant Clearbit committed an unfair and deceptive act in trade and commerce when it made and published false and misleading statements about itself and DiscoverOrg and their respective products. Clearbit's conduct violates the Lanham Act and is deceptive and unfair on its face.

47. Clearbit's actions have the capacity to materially deceive a substantial portion of the public because Clearbit has made and continues to make public representations about itself and DiscoverOrg's technology and platforms. Clearbit's actions violate the Lanham Act, a statute that has a public interest impact.

48. Clearbit's unfair and deceptive actions have injured DiscoverOrg in its business and property. Clearbit's actions undermine the reputation and goodwill of DiscoverOrg's business while allowing Clearbit to profit at the same time. In addition, Clearbit's false statements affect the public's views of DiscoverOrg's product and key offering.

49. There is a causal link between Clearbit's unfair and deceptive actions and the injury DiscoverOrg has suffered because Clearbit misused and misrepresented information about itself and DiscoverOrg to compete unfairly. Clearbit acted with disregard for DiscoverOrg's ability to control its own reputation and public image. Clearbit has been unjustly enriched through the offer for sale and sale of products based on providing false and misleading information to consumers.

50. Clearbit's conduct constitutes a violation of the Washington Consumer Protection Act and has damaged DiscoverOrg in an amount to be determined at trial.

**VI. PRAYER FOR RELIEF**

WHEREFORE, DiscoverOrg prays for relief as follows:

1. For a judgment against Clearbit;
2. For an injunction against Clearbit that prohibits it from further false advertising and requires removal of all current false advertising and references to DiscoverOrg;
3. For damages against Clearbit in an amount to be determined at trial;
4. For reasonable attorneys' fees and costs of pursuing DiscoverOrg's claims as may be allowed by law; and
5. Such other and further relief as the Court determines is just and proper.

DATED: November 9, 2017

LANE POWELL PC

By /s/Tiffany Scott Connors  
Parna A. Mehrbani, WSBA No. 41631  
Tiffany Scott Connors, WSBA No. 41740  
Telephone: 503.778.2127  
206-223-7267  
Facsimile: 503.778.2200  
Attorneys for DiscoverOrg, LLC

COMPLAINT - 11  
Case No. \_\_\_\_\_

LANE POWELL PC  
601 SW SECOND AVENUE, SUITE 2100  
PORTLAND, OREGON 97204-3158  
503.778.2100 FAX: 503.778.2200

**CERTIFICATE OF SERVICE**

I hereby certify that on November 9, 2017, I caused to be served a copy of the foregoing document on the following person(s) in the manner indicated below at the following address(es):

APIHub, Inc. d/b/a Clearbit  
Via Registered Agent:  
Incorp Services, Inc.  
601 Fourth St., STE # 310  
San Francisco, CA 94107

- ☐ by CM/ECF
- ☐ by Electronic Mail
- ☐ by Facsimile Transmission
- ☐ by First Class Mail
- ☒ by Hand Delivery
- ☐ by Overnight Delivery

s/ Ann Gabu  
Ann Gabu

COMPLAINT - 12  
Case No. \_\_\_\_\_

**LANE POWELL PC**  
601 SW SECOND AVENUE, SUITE 2100  
PORTLAND, OREGON 97204-3158  
503.778.2100 FAX: 503.778.2200